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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/577,231 | 05/23/2000 | Lundy Lewis | C0441/7165 (TAH) | 3634 |
| 34705 | 7590 | 11/26/2003 | EXAMINER | |
| APRISMA MANAGEMENT TECHNOLOGIES, INC. 273 CORPORATE DRIVE PORTSMOUTH, NH 03801 | | | ENGLAND, DAVID E | |
| | | ART UNIT | PAPER NUMBER | 2143 |
| DATE MAILED: 11/26/2003 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/577,231 | LEWIS, LUNDY | |
| | Examiner | Art Unit | |
| | David E. England | 2143 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 5-12 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,8,9
- 4) Interview Summary (PTO-413) Paper No(s). _____ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____ .

DETAILED ACTION

1. Claim 4 is presented for examination.

Election/Restrictions

1. Applicant's election of claim 4 in Paper No. 13 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. This application contains claims 1 – 3 and 5 – 12 drawn to an invention nonelected with traverse in Paper No. 13. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Glitho et al. U.S. Patent No. 6233449 (hereinafter Glitho).

5. As per claim 4, Glitho teaches a method of monitoring a state of a service, the service being composed of components of a network, and the service affecting operation of a business process, the method comprising:

6. monitoring the network components to determine the state of the service, and when the state of the service is degraded, determining a cause of the degraded service by performing one or more of:

7. testing the components,

8. querying a database,

9. modifying the components, and

10. implementing a reasoning algorithm, (e.g. col. 4, line 55 – col. 5, line 40, “*degradation, modifies its suggested corrective actions*” & col. 5, line 63 – col. 6, line 19 & col. 6, line 45 – col. 7, line 20, “*testing, Fault Analysis*”).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
12. a. Douik et al. U.S. Patent No. 6012152 discloses Software fault management system.
13. b. Lee et al. U.S. Patent No. 5446730 discloses Method for dynamic connection management in integrated communication networks.
14. c. Galand et al. U.S. Patent No. 6424624 discloses Method and system for implementing congestion detection and flow control in high speed digital network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is none.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.

David E. England
Examiner
Art Unit 2143

De *DC*



BUNJOB JAIYENCHANWANIT
PRIMARY EXAMINER